

REMARKS

Claims 1-11 and 22-24 are pending in the subject application. Claims 1-11 and 22-24 stand rejected under 35 U.S.C § 102(b) as being anticipated by U.S. Patent No. 3,873,740 to Terrell ("Terrell"). Claims 1-7, 9, 11, 22, and 24 stand rejected under 35. U.S.C. § 102(b) as being anticipated by British Patent No. GB1,368,402 to the Battelle Memorial Institute ("Battelle"). Applicants traverse these rejections and respectfully submit the following amendments, remarks and arguments to overcome the rejections.

Amendments to the Claims

Claims 1, 8-10, 23, and 24 of the subject application have been amended. Claims 1, 8-10, 23, and 24 have been amended to replace the term "composition" with the term "soy protein gel". The use of a soy protein gel as the composition is supported in the specification at page 13, paragraph 0060 and in the examples on pages 15-22. Amendments to the claims are fully supported by the specification as originally filed. Applicants respectfully request that the amendments to the claims be entered into the subject application.

New Claims

Applicants request that new claim 25 be entered in the subject application. Claim 25 depends from claim 1 and states that the quantity of soy protein gel added to the food product is from 0.167% to 25% by weight. Claim 25 is supported by the specification as originally filed. For example, page 12, paragraph 0059 states that the sodium acid pyrophosphate concentration in the soy protein gel composition will be about 2% to 6%. In addition, page 12, paragraph 0058 states that the final concentration of sodium acid pyrophosphate in the food product is from 0.01% to 0.5%. One skilled in the art would understand that to prepare a food product having a concentration of sodium acid pyrophosphate from 0.01% to 0.5% from a soy protein gel

comprising 2% sodium acid pyrophosphate would require adding from 0.5% to 25% of the soy protein gel to the food product by simple mathematical relationships. Likewise, one skilled in the art would understand that to prepare a food product having a concentration of sodium acid pyrophosphate from 0.01% to 0.5% from a soy protein gel comprising 6% sodium acid pyrophosphate would require adding from 0.167% to 8.3% of the soy protein gel to the food product by simple mathematical relationships. The range presented in claim 25 results from the combination of the two ranges for the final concentration of soy protein gel in the food product (i.e., from 0.167% to 25%). One skilled in the art could readily use the percent data presented in the specification to calculate the final percent concentration of soy protein gel that must be added to the food product. Thus claim 25 finds support in the specification as filed. Applicants respectfully request that new claim 25 be entered into the pending subject application.

Claim Rejections - 35 U.S.C. § 102(b)

Terrell

Claims 1-11 and 22-24 of the subject application stand rejected under 35 U.S.C. § 102(b) as being anticipated by Terrell. The Examiner states that Terrell discloses adding soy protein and acidic phosphates to a food product. Applicants respectfully traverse this rejection. Terrell discloses a sausage-type meat food product comprising edible natural flesh, extrusion-expanded protein and a proteinaceous emulsifying agent. (*Claim 1, column 25, lines 48-58*). The extrusion-expanded protein preferably is soy protein concentrate. (*Column 13, lines 59-65*). The extrusion-expansion process involves formation of a protein composition with steam-generated cells by reducing the pressure of a hot melt of the protein mixture as it is extruded, a process described as puffing or balloon puffing. (*Column 13, lines 24-36*). The proteinaceous

emulsifying agent is a debittered, bland, neutralized soy protein concentrate is a finely-divided, essentially dry form. (*Column 14, line 43 to column 15, line 12*).

In contrast to the Terrell disclosure, the subject application discloses a method of altering one or more textural properties of a food product comprising adding a soy protein gel. The soy protein gel, when added to the food product, alters the textural properties of the food product. (*Page 11, paragraph 0056*). The soy proteins of Terrell are an extrusion-expanded “puffed” protein product and a finely divided, essentially dry, soy protein concentrate, and are not the soy protein gel as claimed and described in the subject application. Therefore, the claims as currently amended in the subject application are not anticipated or suggested by the disclosure of Terrell. In light of the amendments and these remarks, Applicants respectfully request that the rejection of claims 1-11, 23, and 24 be withdrawn.

Battelle

Claims 1-7, 9, 11, 22, and 24 of the subject application stand rejected under 35 U.S.C. § 102(b) as being anticipated by Battelle. The Examiner states that Battelle discloses adding soy protein concentrate and sodium acid pyrophosphate to a food. Applicants respectfully traverse this rejection. Battelle discloses a “protein-based food.” (*Page 1, lines 12-13*). The protein-based food of Battelle is formed by mixing water, a vegetable protein, particularly soya protein, animal proteins, lipids, flavorings, gelatin and acidic phosphate salts. (*Page 2, lines 9-104*). The resultant aqueous suspension is then heat dried until the water content is from 5% to 45% to form a gel. (*Page 1, lines 74-90*). The homogeneous block obtained from drying the gel can be cut into thin transparent slices to mimic the partially dried beef of “viande des grisons”, (*page 4, lines 45-52*), or cooked by microwave to produce a ham or bacon mimic, (*page 3, lines 41-50*).

Unlike the subject disclosure, the resultant gel of Battelle is not added to a food product to alter one or more textural properties of the food product, the Battelle gel is the food product. The Battelle gel forms 100 % of the resultant food product. In contrast, the soy protein gel of the subject application is added to a food product, wherein one or more textural properties of the food product are altered. There is no food product in Battelle to which the gel may be added or the textural properties of which may be modified. The method as claimed in the subject application is fundamentally different that the method disclosed by Battelle. Therefore the claims as amended in the subject application are not anticipated or suggested by Battell.

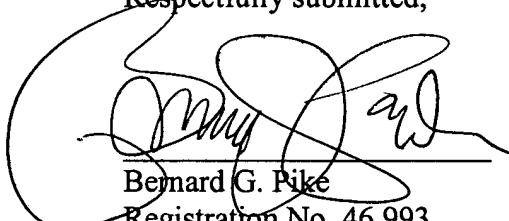
Applicants respectfully request that the rejection of claims 1-7, 9, 11, 22, and 24 be withdrawn.

Conclusion

Applicants believe that they have fully addressed each basis for rejection.

Reconsideration of the claims of the subject application and issuance of a Notice of Allowance is respectfully requested. Should the Examiner have any remaining concerns, he is requested to contact the undersigned at the telephone number below so that those concerns may be addressed without the necessity of issuing an additional Office Action.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Bernard G. Pike', is written over a horizontal line.

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